

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
IP-Enabled Services)	WC Docket No. 04-36
)	

To: The Federal Communications Commission

**COMMENTS OF THE TEXAS COMMISSION ON
STATE EMERGENCY COMMUNICATIONS**

The Texas Commission on State Emergency Communications (“TX-CSEC”),¹ by and through the Office of the Attorney General of the State of Texas, Consumer Protection and Public Health Division, files these comments in response to the Federal Communications Commission (“Commission” or “FCC”) Notice of Proposed Rulemaking in this proceeding on Internet Protocol Enabled Services (“NPRM”).²

I.

Preliminary Statement and Summary of Comments

Internet Protocol (“IP”) enabled voice services present new 9-1-1 challenges and issues for the state and local governments responsible for the planning, funding, and oversight of individual 9-1-1 systems and for federal and state regulators. Any regulatory framework for IP-enabled voice services must address the critical public policy and public safety objective of ensuring that a consumer using an IP-enabled voice service to make a 9-1-1 emergency call will

¹ TX-CSEC is a state agency created pursuant to Texas Health and Safety Code Annotated Chapter 771. Pursuant to Texas Health and Safety Code Ann. Section 771.051(a), TX-CSEC is the State of Texas’ authority on emergency communications.

² *In the Matter of IP-Enabled Services*, Notice of Proposed Rulemaking. WC Docket No. 04-36, adopted February 12, 2004, rel. March 10, 2004. See 69 Fed. Reg. 16193, March 29, 2004.

be able to access 9-1-1 and be able to receive the appropriate level of 9-1-1 service in an emergency situation. The regulatory framework must also necessarily address the issues associated with 9-1-1 funding and the long-term potential additional costs on 9-1-1 Public Safety Answering Points (“PSAPs”) from IP-enabled voice services in conjunction with the technical solutions and requirements for 9-1-1 service.

TX-CSEC respectfully urges the Commission to facilitate and promote a regulatory framework that properly addresses access to 9-1-1 emergency service, the ability to receive the appropriate level of 9-1-1 service, the 9-1-1 funding issues, and the potential long-term cost issues associated with 9-1-1 for IP-enabled voice services.

II.

Technical Solutions and Requirements, Funding Issues, and Long-Term Potential Additional Costs on 9-1-1 PSAPs from IP-Enabled Voice Services

TX-CSEC applauds the Commission’s efforts in the NPRM on the 9-1-1 issues and with its Internet Policy Working Group Solutions Summit on 9-1-1 Issues (which sought solutions on the technical issues associated with ensuring the public’s access to basic and enhanced 9-1-1 emergency services for consumers using IP-enabled voice services). In the NPRM, the Commission seeks comment on whether IP-enabled voice services are technologically and operationally capable of complying with the Commission’s “basic” 9-1-1 service requirement and capable of delivering call-back and location information for 9-1-1 emergency calls.³ As the Commission is aware from the Solutions Summit on 9-1-1 Issues and other filings and presentations, there is much work being done by the National Emergency Number Association (“NENA”), the Alliance for Telecommunications Industry Solutions (“ATIS”), and various individual companies and governmental entities to address the short-term, intermediate-term, and

³ NPRM at para. 53-54.

long-term technical 9-1-1 solutions to provide enhanced 9-1-1 access for emergency calls made using IP-enabled voice services.

For purposes of these initial comments, TX-CSEC will leave it to the respective technical groups to provide the details on the 9-1-1 technical solutions. TX-CSEC believes these technical groups will ultimately come up with technical standards that enable a proper set of enhanced 9-1-1 delivery requirements that further public safety. As such, TX-CSEC respectfully submits that there can be little debate that IP-enabled voice services that may be used to make 9-1-1 emergency calls meet the intent of the four criteria of the Commission's *E911 Scope Order* set out in paragraph 55 of the NPRM.

The Commission seeks comments on whether voluntary consensus, rather than regulation, could spur 9-1-1 deployment.⁴ Voluntary consensus on 9-1-1 service delivery should continue to be encouraged.⁵ TX-CSEC respectfully submits that a strictly voluntary system would not provide the certainty needed for the public safety protection of the consumers using IP-enabled voice services to access 9-1-1 service. The Commission also seeks comment on the time frame in which it should consider the 9-1-1 issues in the context of IP-enabled services.⁶ TX-CSEC respectfully submits that the 9-1-1 issues would benefit from having more certainty at the earliest possible time.

In addition to the 9-1-1 issues directly raised in the NPRM, two other critical 9-1-1 issues need further attention and must be properly addressed: (1) the funding of 9-1-1 emergency services from IP-enabled services, and (2) whether there will be sufficient funding for the

⁴ NPRM at para. 56.

⁵ Potential liability issues associated 9-1-1 emergency service may hinder the ability to reach voluntary agreements on service levels in some circumstances.

⁶ NPRM at para. 57.

potential additional costs on 9-1-1 PSAPs associated the long-term 9-1-1 technical solution.

IP-enabled voice services present at least two unique cost and funding issues for state and local governments that provide 9-1-1 emergency services to the public and that fund these 9-1-1 emergency services through 9-1-1 subscriber fees on traditional wireline service telephone bills. First, because IP-enabled voice service can compete directly with traditional wireline services, IP-enabled voice service has the potential to reduce the currently available 9-1-1 funds to state and local governments by the displacement of the 9-1-1 subscriber fees on traditional wireline service telephone bills. This 9-1-1 funding displacement is already occurring today, to some extent, and will increase as IP-enabled voice service becomes more popular with consumers.

TX-CSEC is currently attempting to work cooperatively with interested parties in Texas, in the context of a TX-CSEC agency rulemaking, to address the displacement funding issue at the state level. TX-CSEC recognizes that a strictly state level rulemaking approach has potential limitations or may be impacted by federal activities. Addressing the 9-1-1 funding displacement issue appears consistent with the NENA and Voice on the Net (“VON”) Coalition agreement (“NENA/VON agreement”) referenced in paragraph 56 of the NPRM. Paragraph 5 of the NENA/VON agreement provides “[s]upport for an administrative approach to maintaining funding of 9-1-1 resources at a level equivalent to those generated by current or evolving funding processes.” The Commission’s further attention and assistance on the displacement issue could be beneficial and facilitate greater consistency among the states on this issue.

Second, because the long-term enhanced 9-1-1 technical solution for IP-enabled voice services may require IP-enabled PSAPs and 9-1-1 networks, it appears at this time that there will be additional cost burdens on state and local governments to upgrade PSAPs and the 9-1-1

network to IP-enabled services. These potential long-term cost burdens on state and local governments, if not properly addressed, could potentially delay the implementation of the long-term 9-1-1 technical solution for IP-enabled voice services.

While the planning, funding, and oversight of individual 9-1-1 systems are the rightful province of state and local jurisdictions, some level of national-level coordination, planning, funding, and oversight will likely be needed to address all 9-1-1 issues associated with IP-enabled voice services. Although the long-term technical architecture that will support 9-1-1 calling and 9-1-1 service level for IP-enabled voice services has yet to be finalized, the architecture and call flow will likely not be contained within state boundaries as it, generally, is now for local wireline and wireless calls. In fact, it is likely that IP-enabled voice calls will traverse states lines en route to a PSAP, and many of the network elements may be located in another state or county. In addition, broadband providers (e.g., cable or DSL provider) may need to make modifications that enable the application provider of the IP-enabled voice service to supply the actual location information to the PSAP for a consumer making a 9-1-1 emergency call.

State and local government planning, funding, and oversight of 9-1-1 may be significantly constrained or no longer possible in the context of IP-enabled voice services. State and local governments may also not be in a financial position to make the long-term technical upgrades or modifications as quickly as may be needed or desired. To address the long-term 9-1-1 costs and issues associated with IP-enabled voice services, national-level coordination, planning, funding, and oversight will likely be necessary to supplement and assist the existing state and local government 9-1-1 systems.

III.

Conclusion

TX-CSEC appreciates the opportunity to submit these comments. TX-CSEC respectfully requests that the Commission consider these comments in the Commission's consideration of the 9-1-1 issues associated with IP-enabled voice services.

Dated: May 28, 2004

Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

BARRY R. McBEE
First Assistant Attorney General

EDWARD D. BURBACH
Deputy Attorney General for Litigation

PAUL D. CARMONA
Chief, Consumer Protection and Public Health Division

MARION TAYLOR DREW
Public Agency Representation Section Chief

RICHARD A. MUSCAT
Assistant Attorney General
SBN: 14741550
Public Agency Representation Section
P.O. Box 12548, Capitol Station
Austin, Texas 78711-2548
Voice: (512) 936-1666
Fax: (512) 322-9114
E-Mail: richard.muscat@oag.state.tx.us

Certificate of Service

I certify that a copy of these comments is being served on or before May 28, 2004 by regular or overnight mail, fax or via e-mail on the Commission Secretary and other personnel required by the public notice.

Richard A. Muscat

c:\par\Richardmuscat\fcc 04-36 Initial Comments5.21.04last